IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

C.W.P. No. 14156 of 2000 (O&M)
Date of Decision: Sept. 12,2006

Lashkar Singh ..... Petitioner

Versus

Joint Development Commissioner, Punjab and others ..... Respondents

Coram: Hon'ble Mr. Justice Ashutosh Mohunta
Hon'ble Mrs. Justice Nirmal Yadav

Present: Mr. K.S.Dadwal, Advocate
for the petitioner.

Mr. C.M. Munjal, Sr. Addl. A.G. Punjab,
for the respondents.

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ASHUTOSH MOHUNTA, J.

In the present petition under Articles 226/227 of the Constitution of India the petitioner has assailed the orders dated 30.5.1997 (Annexure P-5) passed by the Collector (respondent No.2) as well as the order dated 18.3.1999 (Annexure P-6) passed by the Commissioner (respondent No.1) whereby the Gram Panchayat of village Sandhra Sodhian, Tehsil and District Hoshiarpur (respondent No.3) has been ordered to be the owner of the land in dispute and the petitioner has been ordered to hand over the vacant possession of the same to the Gram Panchayat.

It is the case of the petitioner that he is the owner of the land in dispute as he had purchased the same vide sale deed dated 23.12.1986 and 14.10.1988. It is contended on his behalf that earlier the L.Rs of Bhulla Singh deceased had filed a suit for permanent injunction against the petitioner as well as the Gram Panchayat (respondent No.3) pertaining the land in dispute, but the same was dismissed by the Civil Court vide judgment and decree dated 11.10.1993 (Annexure P1) by holding that it was not a public street. Even a similar suit filed by Tarsem Singh, Ajit Singh and Charan Singh was also dismissed by the Civil Court vide judgment and decree dated 14.12.1993 (Annexure P-2). On this basis it has been contended on behalf of the petitioner that when the Civil Courts have twice held the land in dispute to be not a public street, the Collector and the Commissioner have erred in passing the impugned

non-speaking orders holding the same to be a public street without caring for the judgments and decrees passed by the Civil Courts.

The petition has been contested by the respondents by filing two similar detailed written statements, wherein primary contention has been raised that the Civil Suits before the Civil Courts pertained to different piece of land and not to the land in dispute. Even if it pertained to the land in dispute, the jurisdiction of the Civil Court is barred by virtue of the provisions of Section 13 of the Village Common Lands (Regulation) Act, 1961 (for short `the Act'). The land in dispute is a public street and the Gram Panchayat (respondent No.3) had brick-paved the same vide resolution dated 23.7.1981 (Annexure R1) annexed to the written statement filed on behalf of respondent Nos. 1 and 2 whereby in all 17 streets including the street in dispute had been made pucca. No replication to the written statements filed by the respondents has been placed on record on behalf of the petitioner.

We have heard the learned counsel for the parties and perused the case file meticulously.

There is no dispute to the fact that as per the provisions of Section 13 of the Act the jurisdiction of the Civil Court to entertain or adjudicate upon any question whether or not the property is Shamlat deh, vested or deemed to have been vested in the Gram Panchayat under the Act, has been barred. In this view of the matter, the contention raised on behalf of the petitioner that earlier the two Civil Courts had dismissed the suits filed against the petitioner, is without any force. Moreover, the respondents have annexed along with their respective written statements the site plans. A perusal of the site plans depicts that the land in dispute is a part of the street, which merges in the main street. It cannot be the position that a street which is available at a distant place would suddenly vanish near the Haveli of the petitioner. It is a matter of common sense that a street in front of the houses on both the sides would merge with the main street. If the plea raised by the petitioner is accepted, then the street in the present case would end when it reaches the Haveli of the petitioner. The respondents have successfully controverted the contentions raised by the petitioner in the present petition by leading cogent evidence in the shape of copy of the resolution dated 23.7.1981 as well as the site plan. No replication to controvert the pleas

raised by the respondents in the written statements has been filed on behalf of the petitioner. The petitioner has also not placed on record the site plans which were the subject-matter of the Civil Suits relied upon by him. We do not find any infirmity in the impugned orders passed by the Collector (respondent No.2) as well as the Commissioner (respondent No.1).

Consequently, there is no merit in this petition. It is, accordingly, dismissed. The interim order of stay passed by this Court on 17.10.2000 stands vacated.

(ASHUTOSH MOHUNTA)
JUDGE

Sept. 12 ,2006 **(NIRMAL YADAV)**
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